

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
APPELLATE SIDE

WRIT PETITION NO.3477 OF 2005

Sambhaji Dnyandeo Salunkhe & Ors. : Petitioners  
(Orig. Deft. Nos.1 to 3)

V/s.

Shivaji Ananta Sutar & Ors. : Respondents  
(Resp.no.1-Orig.Plaintiff  
Resp.Nos.2 & 3-Orig. Deft.  
nos.4 and 5)

...

Mr.Vijay Patil for the petitioners.

Mr.Vinod Jadhav for the respondent no.1.

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**CORAM : S.A. BOBDE, J.**

June 30, 2005.

P.C.:

1. Leave to delete the first sentence of para 5 of the petition is hereby granted. The amendment to be carried out forthwith.

2. The petitioners have been enjoined by the appellate Court in terms of prayer clause (a) of the application for temporary injunction. As a result, the petitioners have been restrained from carrying out any construction.

Admittedly, the petitioners have carried out the work of construction over a disputed area, though according to the learned counsel for the respondents, that is in breach of the order of the appellate Court. Having regard to the fact that the appellate Court has granted an injunction on the basis of the Commissioner's report who has reported that there was a way through which the respondent-plaintiff had access to his property on which the petitioners appear to have made the construction, I see no reason to interfere with the grant of injunction except that the injunction shall be modified to an order of status quo to be maintained by the plaintiff in regard to the construction over the disputed area only.

3. The petition is disposed of with the above observations.

S.A. BOBDE, J.